REDACTED
FOR PUBLIC INSPECTION

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by SBC Communications Inc., Michigan Bell Telephone Company, and Southwestern Bell Communications Services, Inc. for Provision of In-Region, InterLATA Services in Michigan	)	WC Docket No. 03-16

JOINT REPLY DECLARATION

OF

SARAH DeYOUNG

AND WALTER W. WILLARD

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<u>SARAH DeYOUNG AND WALTER W. WILLARD</u>

1. My name is Sarah DeYoung. I am Division Manager – Local Services for AT&T's SBC Local Services and Access Management ("LSAM") Organization. I am the same Sarah DeYoung who submitted a Joint Declaration with Walter W. Willard in this proceeding on February 6, 2003, regarding SBC's operations support systems ("OSS").[1]

2. My name is Walter W. Willard. I am the District Manager for OSS Local Services for AT&T's SBC LSAM Organization. I am the same Walter W. Willard who submitted a Joint Declaration in this proceeding with Ms. DeYoung on February 6, 2003, regarding SBC's OSS.

3. The purpose of this Joint Reply Declaration is to update the record to reflect events occurring since the filing of our Opening Declaration that further confirm SBC's

[1] *See* Joint Declaration of Sarah DeYoung and Walter W. Willard on Behalf of AT&T of Corp. filed February 6, 2003 ("DeYoung/Willard Opening Decl.").

failure to provide nondiscriminatory access to its OSS. For example, as discussed in Part I, SBC has continued to exhibit a disregard for its own Change Management Process ("CMP"). The "action plans" regarding CMP that SBC included in the "Compliance and Improvement Plan Proposals" which it recently filed with the Michigan PSC (and submitted to this Commission) totally fail to address SBC's failure to adhere to the CMP once it has placed an interface into operation.[2] To the contrary, SBC's "Compliance Plan" makes clear that SBC will continue to refuse to abide by the CMP in making changes to its systems and interfaces. Thus, it is hardly surprising that in recent weeks, SBC has made additional changes in its OSS without providing CLECs with advance notice.

4. Furthermore, as discussed in Part II, recent events further illustrate SBC's failure to provide nondiscriminatory access to its OSS. As before, SBC has shown itself unable to provide a stable CORBA pre-ordering interface, to implement effective "fixes" to defects in its OSS, to make changes to its OSS in a competent manner, or to provide CLECs with information about the OSS that they need. SBC also recently admitted to AT&T that it had erroneously provided more than 1,000 line loss notifiers ("LLNs") in Michigan to AT&T by fax, rather than by electronic interface (as SBC had previously agreed) – and SBC's explanation for this error is patently illogical.

[2] *See* SBC's Compliance and Improvement Plan Proposals, filed February 13, 2003, In Michigan PSC Case No. U-12320, Att. F ("Compliance Plan"). SBC included its Compliance Plan in Attachment A to the *ex parte* letter that it filed with the Commission on February 19, 2003. We will respond to SBC's Compliance Plan in this Declaration insofar as it addresses the Change Management Process and SBC's Line Loss Notification performance, and CSI (Customer Service Information/Customer Service Record) Accuracy.

5. Finally, as discussed in Part III, SBC continues to deny CLECs reasonable and nondiscriminatory access to multiple versions of its EDI interface, or to its test environment. As before, and alone among the RBOCs, SBC enforces a policy that effectively requires a CLEC using a particular Operating Company Number ("OCN") to submit all orders from the same EDI version. This requirement substantially impairs competition through line splitting or through other types of competition that requires collaboration by a CLEC and a third party. Similarly, SBC continues to impose unreasonable limitations on the ability of CLECs to conduct retesting in its test environment. Although SBC recently indicated that it might relax (if not totally remove) those limitations at some point in the future, at this stage SBC's professed plans are too vague to be given any weight, particularly since they will not be implemented for at least several months.

I. SBC CONTINUES TO DISREGARD, AND VIOLATE, ITS OWN CHANGE MANAGEMENT PROCESS.

6. As we explained in our Opening Declaration, the root cause of many of the problems that AT&T has experienced with SBC's OSS is SBC's failure to follow its change management process. By repeatedly making changes to its OSS and its business rules without providing advance notice to AT&T, SBC has caused substantial disruption in AT&T's operations, including the erroneous rejection of tens of thousands of orders, provisioning delays, and a substantial increase in AT&T's costs. *See, e.g.,* DeYoung/Willard Opening Decl. ¶¶ 159-176.

7. Although SBC's CMP applies to all 13 States of its various regions, SBC's repeated failure to provide CLECs of in-production changes to existing interfaces is a

problem that occurs most frequently in the Ameritech region. This disparity is, in large part, the result of the woefully unstable and inadequate Ameritech legacy systems. As we described in our Opening Declaration, SBC allowed the back-end systems in the Ameritech region to languish, neglected, until SBC hurriedly began an attempt to improve them in 2001. Even today, the back-end systems in the Ameritech region are not uniform with those in the remainder of SBC's regions – and the non-uniform characteristics of the Ameritech systems account for much of the instability of the OSS. Thus, it is not surprising that the Ameritech OSS has experienced the most problems, and thus required the greatest number of changes, than the OSS of either SWBT or Pacific Bell. *See* DeYoung/Willard Decl. ¶¶ 15-16. Given the vastly higher number of changes and repairs that SBC must make in the Ameritech OSS, the number of instances when SBC makes changes without notifying CLECs would be expected to be far higher in the Ameritech region than in its other regions.[3]

8. Events since the filing of our Opening Declaration provide further evidence of SBC's disregard of the CMP, and the problems that result from its failure to provide the notice required by the CMP. As discussed below, the "Compliance Plan" that SBC recently filed with the Michigan PSC simply demonstrates that SBC has no intention of complying with the notice requirements of the CMP when it makes changes to its interfaces or systems once they

[3] For example, the most recent SBC Defect Report posted on SBC's website shows that, of the 60 defect reports identified therein, 52 percent of the defect reports were opened by the Ameritech region, while only 23 percent were opened by SWBT, 12 percent by Pacific Bell, and 13 percent by SNET. *See* SBC LSOG 3-4-5 CLEC Web Defect Report, dated February 28, 2003 (attached hereto as Attachment 1). Even this report does not provide a complete description of all of the defects in Ameritech's OSS, because it identifies only "all known significant CLEC-Impacting defects identified" by SBC's OSS Support Team or Mechanized Support Center. *Id.* at 1. In fact, AT&T has been adversely impacted in production by defects in the OSS that did not appear in SBC's Defect Report.

have been put into production. SBC's conduct in recent weeks provides yet more examples of its failure to provide CLECs with advance notice of such changes.

A. SBC's Recently-Filed "Compliance Plan" Does Not Address the Fundamental Problem: SBC's Failure To Abide By the CMP.

9. The Change Management Process "manages changes to OSS interfaces that affect CLECs' production or test environments." DeYoung/Willard Opening Decl. ¶ 160 (quoting SBC's 13-State CMP). SBC is required to adhere to the specific notice requirements of the CMP regarding the implementation of those changes *unless* it properly utilizes and follows the Exception Process of the CMP – which requires the unanimous consent of all parties (including CLECs) for any deviation from those requirements. *Id.* ¶¶ 161-162.

10. As we have previously shown, however, SBC has persistently failed to comply with the notice requirements of the CMP after an interface has been placed into production. In instance after instance, SBC has made changes to its interfaces or systems without providing advance notice to the CLECs. SBC has never attempted to use the Exception Process prior to making such changes. *Id.* ¶¶ 160-177. In fact, it was not until January 23, 2003, that SBC first provided advance notice of *any* anticipated change to an existing interface prior to making such a change. DeYoung/Willard Decl. ¶¶ 24, 165.

11. In our Opening Declaration, we described the Accessible Letter that SBC sent to CLECs on January 23, 2003 as the first time (aside from documentation regarding its releases) that SBC provided advance notice of an "in production" systems change *in compliance with the CMP*. *Id.* Even that description, however, overstated the nature of SBC's performance. While the January 23rd Accessible Letter marked the first time that SBC followed the general

CMP requirement of providing advance notice of an "in production" change, SBC in fact did not fully comply with the CMP's specific requirements, because it failed to give the 110 to 130 days' advance notice required by the CMP. *Id.*, Att. 10 (giving CLECs notice of change to be made in 51 days). Nor did the Accessible Letter purport to invoke the Exception Process of the CMP. *Id.* SBC's January 23rd Accessible Letter simply marked the first occasion (aside from documentation) regarding its releases on which SBC provided CLECs with *any* advance notice of an in-production systems or interface change.

12. In response to AT&T's evidence regarding SBC's failure to give advance notice of systems changes to CLECs, the Michigan PSC recently found that "SBC's recent OSS changes were not announced prior to their implementation *and did indeed negatively affect the CLECs*." *Michigan PSC Companion Order* at 10 (emphasis added). Concluding that "a more encompassing definition of items covered by the exception process is necessary, as AT&T suggests," the PSC required SBC to file by February 13th "a compliance and/or improvement plan to address the issues AT&T has raised." *Id.*

13. Although SBC filed a "Compliance Plan" on February 13, its proposals regarding CMP in the Plan are totally unresponsive to the issues that AT&T has raised. To the contrary, SBC's proposals simply demonstrate that it has no intention of complying with the CMP in making in-production changes to its systems and interfaces.

14. Far from proposing the "more encompassing definition of items covered by the exception process" that the Michigan PSC contemplated, SBC's Compliance Plan simply reiterates SBC's crabbed, improper interpretation of its obligations under the CMP. SBC

contends that the Exception Process must be invoked only when it "seeks to modify an existing documented business rule outside of the normal notification guidelines." Compliance Plan, Att. F at 3. Thus, of the four incidents that it addresses where AT&T's orders were adversely affected by unannounced changes made by SBC, SBC concludes that it was required to invoke the Exception Process in only *one* of those incidents, because only that incident involved a modification of its business rules. *Id.* at 3. By contrast, SBC asserts that it did *not* violate the CMP in the case of the other three incidents, because they involved "creating an edit to enforce an existing rule, or further tightening an edit of an existing business rule" or an instance where a system simply did not "turn up as planned" – situations to which, SBC contends, the Exception Process does not apply Compliance Plan, Att. F at 3-4 (emphasis in original omitted).

15. Nothing in the CMP, however, supports SBC's strained interpretation. SBC cites no support for its view, nor can it. The provisions of the CMP do not distinguish between "changes to business rules," on the one hand, and "creating edits to enforce an existing business rule" or "tightening an edit of an existing business rule" (or situations where "a system does not turn up as planned"), on the other hand.

16. The CMP document states that one of the purposes of the CMP is "to establish a means by which . . . SBC will notify changes to be made to the OSS interfaces," and that the parties intend the CMP to be "based on group consensus." SBC 13-State Uniform Change Management Process (Cottrell Aff., Att. N), § 1.0 ("CMP Document").[4] As we have

[4] Section 1.0 of the CMP Document also states that the document "contains the standards for the Change Management Process ('CMP') by which SBC Communications . . . will notify Competitive Local Exchange Carriers ('CLECs') of charges to the Operational Support Systems ('OSS') interfaces, introduction of new interfaces and retirement of interfaces detailed below and

stated, by its terms the CMP applies to "changes to OSS interfaces that affect CLECs' production or test environments," including changes to existing functionality or changes that require CLECs to meet new technical requirements. *See* DeYoung/Willard Opening Decl. ¶ 160.

17. The CMP specifically states that "any agreement to deviate from the normal CMP shall be *agreed to unanimously* by Qualified CLECs and SBC." *Id.* § 6.3.1 (emphasis in original). Thus, if "SBC wishes to propose that a specified change, introduction of a new interface or retirement of an interface be handled on an exception basis, SBC will issue a Release (or Retirement) Requirements Exception Accessible Letter." *Id.* § 6.3.2. SBC "may proceed to implement the change on an exception basis only if there are no outstanding issues, or CLEC objections at the end of the CLEC response cycle." *Id.* § 6.3.2.3.[5]

18. The reason why the CMP does not make the distinctions created by SBC is obvious. Regardless of how it is classified, any change that SBC makes in its interfaces without proper advance notice to CLECs can disrupt a CLECs' ability to perform the OSS

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provides for the identification and resolution of CLEC issues associated with the CMP." CMP Document § 1,0.

[5] The Exception Process language was originally proposed in 1998 by AT&T as a part of collaborative sessions in connection with the California PUC's review of SBC/Pacific Bell's Section 271 application. This language was later incorporated by CLEC and SBC drafting team members into the 7-State Change Management Process (SWBT and Pacific states) and the 13-State Change Management Process. When AT&T originally proposed the Exception Process language that now appears in Section 6.3 of the 13-State CMP, many of the other CLECs participating on the drafting team opposed allowing SBC to deviate from the notice intervals, both for changes to upcoming releases as well as to existing releases. But AT&T strongly believed that the Exception Process language was needed to provide SBC with an orderly way to notify CLECs and gain their concurrence regarding the inevitable changes that might be needed to fix errors or care for unforeseen circumstances, as long as this "escape clause" was not abused. At the time, SBC acknowledged AT&T's flexibility and enthusiastically supported adoption of this language. Given this history, and the fact there are no penalties associated with invoking the Exception Process, it is a mystery why SBC is so reluctant to comply with it.

functions that are indispensable to its ability to compete in the local exchange market. We have already shown that, in each of the four incidents addressed by SBC (Compliance Plan, Att. F at 3-6), SBC's unilateral changes caused the rejections of thousands of AT&T's orders, thereby delaying provisioning of the orders to AT&T's customers, increasing AT&T's costs (including the cost of resubmitting many of the rejected orders), and injuring AT&T's reputation in the marketplace. In summary:

- In late November 2002, SBC rejected approximately 15,000 of AT&T's change orders, using the error message "L100/101" (PIC/LPIC Already Working) because AT&T had changed the rules for populating certain fields relating to PIC and LPIC on the LSR (in an effort to satisfy certain Observations issued by BearingPoint in its third-party test) without providing advance notice of that change to CLECs. AT&T was required to file supplemental orders for *all* of these rejected orders. DeYoung/Willard Opening Decl. ¶¶ 62-64.

- In November 2002, AT&T received rejection notices for approximately 1,000 of its orders with error code H325 (which signifies that the order contained more telephone numbers than the applicable Customer Service Record), even though the orders contained no such error. It appears that SBC rejected the orders because it was improperly applying LSOG 5 edits to AT&T's LSOG 4 orders, and had not advised AT&T that it would be doing so. SBC ultimately "un-rejected" these orders, but took nearly a month to "un-reject" nearly half of them – thereby delaying provisioning of service to these customers for weeks. *Id.* ¶¶ 77-78.

- In November and December 2002, AT&T received rejection notices for almost 1,900 orders with error code B103 (Invalid Listing Type: Non-Published, Non-Listed). Like the "H325" rejections, these "B103" rejections resulted from SBC's improper application of LSOG 5 edits to LSOG 4 orders, because the listing types covered by error code B103 are relevant only in the LSOG 5 version of EDI. AT&T had not been advised that SBC would be applying this edit to its orders. Although SBC did not request AT&T to supplement the rejected orders, AT&T felt compelled to submit supplemental orders for some of them, because they had been awaiting provisioning for weeks and SBC had been unable to provide an estimated completion date. Although SBC promised that it would "un-reject" the remaining orders (which constituted a majority of the rejected orders), SBC did not "un-reject" the last of the rejected orders until 45 days after AT&T first opened a trouble ticket with SBC on this issue. *Id.* ¶¶ 79-81.

- Beginning in September 2002, SBC's OSS erroneously rejected approximately 15,000 orders -- and approximately 800 supplemental orders that AT&T submitted following rejection of the original orders – with a "G408" error code (Invalid Trailing Data for Certain Features). The 15,000 orders were originally rejected because SBC, without providing advance notice to AT&T, had changed its EDI coding to eliminate certain spacing requirements for such orders. The 800 supplemental orders were rejected because SBC had made a change in its interface code without any notice to AT&T. In both cases, AT&T was required to implement coding changes to its own EDI gateway and re-send the orders as supplemental orders, because SBC was unable or unwilling to resolve the problem in an expeditious, satisfactory manner. *Id.* ¶¶ 82-90.

19. These incidents (as well as others discussed herein and our Opening Declaration) illustrate why, under the CMP, it is simply immaterial whether a change involves a "modification" or "tightening" or "enforcement" of a business rule. Whatever their classifications, these are changes to SBC's interfaces and systems – and are therefore subject to the notice requirements of the CMP. Moreover, whatever their classification, these changes, if implemented without the notice required by the CMP, are likely to have the same effect – the disruption of CLEC operations that the CMP was intended to prevent. Even SBC, while denying any obligation to comply with the CMP in situations involving "tightening an edit" or "enforcing a business rule," acknowledges that advance notification of such changes would be "beneficial" to CLECs. Compliance Plan, Att. F at 3.

20. SBC's interpretation, in short, would simply perpetuate the *status quo* – an OSS that is both unstable and unreliable. Under its interpretation, SBC could continue to make changes in its interfaces without complying with the advance notice requirements of the CMP, simply by proclaiming that the change did not involve a change to a business rule. And, as in the

past, CLECs would continue to experience an environment of uncertainty, including the substantial disruption in their operations that invariably results from the lack of sufficient advance notice.

21. In fact, the only concession that SBC's Compliance Plan makes to address the CLECs' concerns is its yet-to-be-implemented change management "action plan," which falls far short of meeting its current obligations to comply with the existing change management procedures. In its "action plan," SBC promises that in the future, it will provide CLECs with a "courtesy Accessible Letter" when: (1) it is "tightening an edit or business rule" outside a quarterly release (as when the edit is part of a "fix" for an open Defect Report); and (2) it "begins enforcing" an existing documented business rule with an electronic or manual edit outside a quarterly release. SBC further promises to provide "more detailed information" (which it does not describe) in Accessible Letters "to include when SBC changes a 3rd-party vendor or when SBC changes to a newer version of the 3rd party software." Compliance Plan, Att. F. at 4-5. Finally, SBC promises to follow the "normal outage notification process" when "a system does not turn up as planned." *Id.*, Att. F at 6.[6]

22. As a preliminary matter, SBC's promises – like the other promises of future performance that it makes in its Compliance Plan – should be given no weight here. First, consideration of SBC's Compliance Plan would violate the Commission's rule that "a BOC's section 271 application must be complete on the day it is filed," and that a BOC "may not, at any

[6]SBC also promises to provide CLECs with a list of SBC's third-party vendors and software versions that will affect CLEC connectivity. *See* Compliance Plan, Att. F at 5. Although this information may be useful to CLECs, it does not alleviate the fundamental problem with the CMP – SBC's failure to follow the CMP in making in-production changes to systems or

time during the pendency of its application, supplement its application by submitting new factual evidence that is not directly responsive to arguments raised by parties commenting on its application." *Michigan 271 Order* ¶ 50. SBC did not submit its Compliance Plan until four weeks *after* it filed its Application, and all of the corrective action items promised therein are nothing but empty promises of future improvements. The compliance plan is therefore irrelevant to the issue of SBC's *present* compliance with Section 271. *Michigan 271 Order* ¶¶ 55, 179; *New York 271 Order* ¶ 37.

23. Notably, SBC refuses to promise actual compliance with the existing CMP requirements for all of the types of changes that it describes. For example, under its proposal SBC would issue "courtesy Accessible Letters" only when it makes changes to its OSS "that may reasonably be expected to be CLEC-affecting." Compliance Plan, Att. F at 4. The determination of whether a change "affects CLECs," however, would clearly be made exclusively by SBC itself, because its Compliance Plan fails to provide for any monitoring of its performance by a third party. *Id.* at 2 & Att. F at 4-5. Given SBC's unduly narrow interpretation of the provisions of the CMP, there is no basis for believing that SBC will interpret "CLEC-affecting" any more broadly for purposes of its Accessible Letters.

24. Even if SBC intends to make a good faith assessment of whether a change "may reasonably be expected to be CLEC-affecting," its proposal is flawed for an even more fundamental reason. As has been demonstrated by past experience, SBC cannot accurately predict whether a particular change will affect CLECs. That is why the CMP anticipates that SBC will provide CLECs with advance notice to CLECs of *all* changes to the interface –

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interfaces.

regardless of SBC's subjective view of whether such changes will affect them. Rather than perpetuate its narrow reading of the CMP, SBC should give advance notice of *all* changes that it is making to interface software, business rules and edits outside of quarterly release windows (including changes that SBC may introduce during "maintenance windows" or emergency actions that SBC takes to resolve defect reports).

25. Indeed, in our Opening Declaration, we described a number of instances of particular changes made by SBC where SBC clearly decided not to provide CLECs with adequate notice in advance of the change because of its erroneous belief that the change would have no impact on the CLECs. For example, SBC changed the rules for populating certain fields relating to PIC and LPIC on the LSR in an effort to satisfy certain Observations issued by BearingPoint. Obviously believing that the change would not affect CLECs (or preferring to turn a blind eye to it), SBC provided no advance notice to CLECs – and AT&T experienced 15,000 order rejections as a result. DeYoung/Willard Opening Decl. ¶¶ 62-63. Similarly, SBC announced a new process regarding the "Working Service In Conflict" issue on only five weeks' notice, because it erroneously assumed that CLECs already had the capability to supplement a "FOC'd" order when no mechanical jeopardy notice had been received. *Id.* ¶¶ 69-73. And, because of SBC's apparent belief (or indifference to the fact) that a change it was making in EDI coding to eliminate spacing requirements for LSRs would have no effect on CLECs, SBC failed to notify AT&T in advance of the change – resulting in the rejection of approximately 15,000 of AT&T's orders. *Id.* ¶¶ 82-83.

26. In fact, SBC made another such misjudgment in recent weeks. As described below, beginning on February 18, a substantial number of AT&T's orders were

rejected on the ground that AT&T had failed to complete the Directory Activities ("DACT") field on its orders – even though AT&T had successfully submitted orders *without* completing that field both in the test environment and in commercial production for the previous two months. SBC explained that, although such orders had previously been successful in the test and commercial environment, they were now being rejected because SBC had made a correction to its EDI mapping that "was not intended to touch on this area" – *i.e.*, had not been expected to affect AT&T. The change, however, *did* affect AT&T, causing the rejection of more than 3,000 of its orders in the Ameritech region (including more than 1,000 orders submitted in Michigan), and requiring AT&T to recode its side of the interface and to resubmit *all* of these rejected orders. Plainly, SBC misjudged the impact of this change.[7] And notably, as described below, although the correction to the EDI mapping errors occurred after SBC submitted its Compliance Plan to the Michigan PSC, SBC issued no "courtesy" accessible letter or other advance notice notifying AT&T (or any other CLEC) of the change.

27. SBC's proposal regarding "courtesy Accessible Letters" is also inadequate because it is devoid of detail. Most significantly, SBC does not even describe how far in advance of a change it would provide the Accessible Letter to CLECs. *Id.*, Att. F at 4-5. If the change required a CLEC to make substantial modifications in its own systems, advance notice of only a few days or weeks would be tantamount to no advance notice at all.

[7] As described below, SBC made a similar misjudgment in the advice that it gave to SBC regarding interface definition language ("IDLs"). When AT&T asked whether SBC whether the IDLs that SBC had recently posted on its website for LSOG version 5.03 differed from those that SBC had previously posted for LSOG version 5.02 (which AT&T had incorporated into the design of its side of the CORBA pre-ordering interface), SBC responded that there was only one difference, which did not appear to affect AT&T. SBC's response was erroneous, because in

28. Finally, in addition to being irrelevant to the issue of SBC's current compliance with Section 271, SBC's Compliance Plan with respect to the CMP must be viewed with considerable skepticism, given its inconsistency with representations that SBC has made to AT&T. As shown in Attachment 2, the descriptions that SBC provides in its Compliance Plan regarding certain four instances involving erroneous rejections of AT&T's orders are inconsistent with the explanations that SBC has previously provided to AT&T. For example, SBC contends in its Compliance Plan that the "L100/101 error" occurred because SBC was applying an LSOG 5 edit in the LSOG 4 version in an attempt to correct an open defect report. Compliance Plan, Att. F at 3. SBC, however, advised AT&T that the error occurred because of a change that it was making in an effort to satisfy certain Observations which BearingPoint had issued in its test of the OSS. DeYoung/Willard Opening Decl. ¶ 62. The ever-shifting nature of SBC's explanations for the problems is, by itself, reason to question whether it will fulfill the promises that it makes in its Compliance Plan (as inadequate as they are).

B. SBC's Conduct In Recent Weeks Further Illustrates the Need For SBC To Provide Sufficient Advance Notice of Changes To CLECs.

29. Since we filed our Opening Declaration, SBC has made yet more changes to its systems without providing advance notice to CLECs. These instances further illustrate why compliance by SBC with the notice requirements of the CMP is critical to CLECs. Absent such notice, SBC's systems lack the stability that CLECs need in order to compete effectively in the local exchange market. Furthermore, SBC's failure to provide proper advance notice of its changes regarding the use of the "DACT field" and its Interface Definition Language is further

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fact it had made a number of changes in the IDLs. As a result, AT&T was severely impaired from sending pre-ordering transactions successfully via the CORBA interface.

evidence that SBC denies nondiscriminatory access to ordering and pre-ordering functions, respectively.

30. **The "DACT Rejections."** Within the last two weeks, SBC's OSS rejected more than 1,000 of AT&T's orders in Michigan, and over 3,000 of AT&T's orders in the Ameritech region, due to an unannounced change that SBC made in the OSS. This incident illustrates not only SBC's failure to abide by the CMP, but also the deficiencies in SBC's test environment and OSS documentation.

31. The Local Service Request ("LSR") used by CLECs contains three fields that must be completed when a customer seeks more than one copy of the white or yellow page directory listing: DIRTYP (Directory Type); DIRQTY (Directory Quantity); and DACT (Directory Activities). If the CLEC does not fill in all three of these fields, the customer will receive only one copy of each directory.

32. In October and November 2002, AT&T submitted test orders in SBC's joint test environment in connection with the scheduled transition of AT&T Consumer Services ("ACS") to LSOG 5.02 on December 9, 2002. In accordance with its interpretation of the business rules, on all of its test orders AT&T completed the DIRTYP and DIRQTY fields, but left the DACT field blank. All of these orders completed successfully, *i.e.*, none of them was rejected. AT&T received no indication during testing that completion of the DACT field was required on these orders.

33. With respect to the DACT field, condition 3 of the Local Service Ordering Rules ("LSOR") for the Ameritech region provides that the use of the DACT field in that region

is optional. AT&T therefore believed that, in the Ameritech region, it was not required to include the DACT field on LSRs even if the DIRTYP and DIRQTY fields were completed.

34. On December 9, 2002, ACS made the scheduled migration to LSOG 5. Between that time and February 17, 2003, ACS submitted substantial volumes of orders for new service under LSOG 5.[8] In those commercial orders, as in the test orders, ACS completed the DIRTYP and DIRQTY fields, but not the DACT field. And, as in the testing environment, none of these orders was rejected on the ground that the DACT field had been left blank.

35. Since the time of its migration to LSOG 5 on December 9, AT&T has made no changes to its own systems that would have affected the DIRTYP, DIRQTY, or DACT fields. However, beginning February 18, 2003, SBC returned rejection notices for a number of AT&T's orders. The rejection notices contained error codes stating that "DL-DIRQTY required when DIRTYP provided, otherwise prohibited," and "DL-DIRTYP prohibited when DACT is not populated." In other words, the codes stated that SBC required completion of the DACT field when the DIRQTY and DIRTYP fields have also been completed – and that, unless all three fields are completed, they should *all* be left blank. This was contrary to SBC's own LSOR, to the successful experience of AT&T's orders during testing, and to AT&T's commercial experience prior to February 18.

36. AT&T contacted SBC for an explanation of the rejections, pointing out that condition 3 of the LSOR made the use of the DACT field optional in the Ameritech region.

[8] In December 2002 and January 2003, AT&T submitted more than [*******] orders in the Ameritech region, including [*******] orders in Michigan. A substantial portion of those orders were orders for new service.

Although SBC acknowledged this fact, it rationalized that condition 3 is superseded by footnote 3 of the LSOR, which makes the DACT a required field. Thus, SBC's response, in essence, was that AT&T should have known that a requirement buried in a footnote should override a contrary instruction in the text of its LSOR documentation. Given such flawed and inconsistent documentation, it was unreasonable for SBC to suggest that AT&T could somehow have "figured it out."

37. AT&T also pointed out that, even if the footnote cited by SBC made the DACT a required field, all of AT&T's test orders and commercial orders submitted in the two months prior to February 18 had not been rejected even though the DACT field had not been completed. SBC responded that "The reason you were not receiving this error for the DACT field prior to [February 18] was due to an EDI mapping issue *that was corrected February 17th*. *The EDI mapping issue was not intended to touch on this area.*"[9] In other words, the rejections occurred because SBC unilaterally made a change in its OSS without advising AT&T, on the basis of SBC's assumption that the change would not have an impact on AT&T.

38. In order to avoid further order rejections, AT&T modified its systems to ensure that *none* of the three directory-related fields on the LSR, including the DACT field, will be completed unless a customer desires more than one directory.

39. SBC's unannounced change resulted in the rejection of all orders for new service and additional lines (as opposed to migration orders) – totaling 3,012 – that AT&T submitted from four states in the Ameritech region (Michigan, Illinois, Indiana, and Ohio)

[9] Electronic mail message from Brian Letson (Pacific) to Walter W. Willard (AT&T), dated

between February 18 and February 21. Of these rejected LSRs, 1,014 were submitted for customers in Michigan. Because SBC is unable to "un-reject" orders submitted under LSOG 5, and did not offer AT&T any option other than to send supplemental orders. AT&T was required to send supplemental orders for all 3,012 rejected orders.[10] As a result, AT&T was required to expend substantial additional resources, and installation of the customers' service was delayed beyond the original due date.[11]

40. This incident further evidences the instability and inadequacy of SBC's OSS. First, SBC again failed to comply with the notice requirements of the CMP, or to otherwise provide advance notice that it was making a change – on the basis of its unilateral (and erroneous) assessment that the change it was making would not affect the CLECs. This change resulted in erroneous order rejections, which, as discussed below (¶¶ 51-52, *infra*), cause significant competitive harm to AT&T.

41. Second, the incident illustrates the inadequacies of SBC's test environment. In its Application, SBC asserts that its test environment is stable, "mirrors [its] production environment," and thus allows a CLEC to verify that its OSS "will interact

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February 19, 2003 (attached hereto as Attachment 3).

[10] Electronic mail message from Thomas Himm (Pacific) to Walter W. Willard, dated February 18, 2003; electronic mail message from Walter W. Willard to Thomas Himm, dated February 18, 2003. These e-mail messages are attached hereto as Attachment 4.

[11] AT&T has requested SBC to implement an efficient and effective "un-reject" capability in LSOG 5, citing the burden and unfairness of requiring AT&T to supplement thousands and thousands of orders that were either rejected in error or rejected due to an announced change by SBC. *See, e.g.,* letter from Sarah DeYoung to Thomas Harvey and Glen Sirles (SBC), dated February 26, 2003 (attached hereto as Attachment 5). To date, however, SBC has not responded to this request. On February 28, SBC advised AT&T that it would respond by March 7, 2003, to AT&T's February 26th letter requesting such implementation.

effectively with Michigan Bell's OSS."[12] AT&T's experience belies that assertion. AT&T submitted orders successfully in the test environment (and in production) with the DACT field uncompleted – only to find, months later, that the orders were being rejected due to a change made in the interim by SBC. In such circumstances, the test environment cannot serve as a reliable indicator of whether the CLEC's orders "will interact effectively" with SBC's OSS in actual production.

42. Third, the incident shows the inadequacy of SBC's documentation regarding its OSS. As SBC acknowledged, the LSOR for the Ameritech region contained a provision that made the use of the DACT field optional. The fact that a footnote buried in the same LSOR requires the use of that field only shows that the documentation is both inconsistent and unreliable.

43. Fourth, the rejection of these orders due to SBC's unannounced change is only the latest example of an OSS problem that is not captured in SBC's self-reported monthly performance data. Because AT&T was required to submit supplemental orders, the reported

[12]Application at 57; Cottrell Aff. ¶¶ 219-220. Thus, SBC asserts, its test environment "allows a CLEC, working jointly with the SBC Midwest Test Team, to verify that its gateway system is ready for production and that its test cases execute successfully based upon system specifications." Cottrell Aff. ¶ 220. SBC's Joint Test Plan Template similarly states that one of the objectives of the joint SBC-CLEC test effort is to "verify that incoming and outgoing transactions, system interfaces, and business processes are functioning." The Joint Test Plan Template further states that "The Joint CLEC test focuses on verifying that the CLEC can successfully send an LSR file via EDI containing various production order types to SBC. The test will demonstrate that the LSR-EDI file transmitted from the CLEC is successfully processed through incoming transactions, system interfaces, business processes, and outgoing transactions." SBC Competitive Local Exchange Carrier (CLEC) Order and Pre-Order Regression – Joint Test Plan Template (JTP), dated September 12, 2002, at 5 (Sections 1.0, 2.1) (attached hereto as Attachment 6). SBC makes virtually identical statements in the Joint CLEC Release Plan Template for EDI and LEX that it includes with its Application. *See* Cottrell Aff. ¶

performance results do not include data regarding the original (rejected) orders – including the delays in the transmission of firm order confirmation notices and missed due dates resulting from the rejections. AT&T estimates that if such data had been included in the reported results, SBC would have been required to pay AT&T more than $756,000 (including more than $152,000 for orders submitted for Michigan customers) pursuant to SBC's performance assurance plan based on late FOCs and missed due dates alone.[13]

44. Finally, this problem illustrates one of the serious deficiencies in SBC's Compliance Plan. Despite the fact that this EDI mapping change was undertaken four days after the Compliance Plan was filed, SBC issued no courtesy Accessible Letter or any other form of advance notice informing CLECs of the planned change (or giving them time to object). SBC has stated that this mapping change was inadvertently made when SBC personnel were correcting a defect report in the LSOG 5.03 version, and noticed that the code was also "wrong" for the 5.02 version. Rather than issuing an Accessible Letter ("courtesy" or otherwise) to notify CLECs of this discovery, SBC made changes to both versions simultaneously. It is unclear

221 & Att. O at 6 (Sections 1.0, 2.1).

[13] Although 1,014 of the rejected orders – or more than one third of the total of 3,012 rejected orders – were for customers in Michigan, the penalties that SBC would be required to pay for Michigan orders are disproportionately low because SBC is required to make far lower payments for late due dates in Michigan than in the other three States (Illinois, Indiana, and Ohio). SBC is required to pay $300 in Illinois and Indiana and $150 in Ohio for each occurrence of a missed due date, but only $75 per occurrence of a missed due date in Michigan. Thus, for missed due dates, SBC would be required to pay $76,050 (1,014 orders x $75/occurrence), but $430,200 in Illinois (1,434 orders x $300) occurrence), even though the volumes of rejected orders in Illinois were only 40 percent higher than those in Michigan. In fact, in Ohio, SBC would be required to pay penalties of $81,450 (543 orders) x $150/occurrence) – an amount higher than that for Michigan -- even though the volumes of rejected orders in Michigan were almost twice those in Ohio. Only in Indiana, where only 21 orders were rejected, would SBC pay a lower penalty for missed due dates ($6,300) than it would in Michigan.

whether SBC agrees that notification was required before making the change or whether it believes that no Accessible Letter was required because it did not anticipate that the coding change would affect CLECs. But, under the Compliance Plan, it is clear that SBC can always represent after a change has occurred that it simply did not believe that the change would impact CLECs. Thus, the Compliance Plan requires nothing of SBC – it can simply disclose changes at its own whim.

45. **Change In Interface Definition Language.** As part of its process of "coding" its side of the CORBA interface, AT&T used the interface definition language ("IDL") – which specifies the commands and placement of such commands for particular transactions – that SBC had promulgated for version 5.02 of that pre-ordering interface and posted on its website for that version. AT&T developed its coding requirements in the fall of 2002, in accordance with the documentation that was then posted on SBC's website. Thereafter, SBC issued requirements for version 5.03 for CORBA. Upon release of these new requirements, AT&T asked SBC whether any of the IDLs were affected by the version 5.03 requirements. SBC responded that the IDLs for version 5.03 were identical to those for version 5.02, with the exception of an additional IDL to support the "CSI summary" in the SWBT region. In addition to discussing this issue with SBC, AT&T also reviewed the applicable Accessible Letters and determined that there were no Accessible Letters pertaining to IDLs.

46. Thereafter, AT&T attempted to submit pre-ordering transactions with IDLs downloaded from SBC's website. The transactions, however, were unsuccessful. When AT&T notified SBC of the unsuccessful transactions, SBC continued to maintain that it had not changed the IDLs from those on the website that were in production for CORBA pre-order

version 5.02, with the exception of the above-described addition of a new IDL for a CSI summary in the SWBT region. However, when AT&T reviewed the IDLs then posted on the website for version 5.03 of CORBA, AT&T found numerous differences between those IDLs and the earlier IDLs.

47. When SBC loaded the latest version of IDL supporting the SWBT "CSI summary" on its website, it provided no notice to the CLECs that any of the other IDLs on its website had been changed. To the contrary, SBC represented to AT&T – which had coded its systems according to the IDLs posted on the website – that no other change had occurred. As a result of SBC's failure to provide notice, AT&T's ability to submit pre-ordering transactions has been seriously disrupted, and AT&T was required to update its IDLs for CORBA.

48. Because of these unannounced Ameritech IDL changes, AT&T experienced what are known as "marshalling errors" each day for almost a month (beginning in February 2003). Every time that a marshalling error occurs, the pre-order server supporting all SBC pre-order transactions must be reset – a process that takes approximately one minute – thus disrupting any transactions that are already in progress (even transactions between other service representatives and other customers) and preventing AT&T from submitting new pre-order transactions. At a minimum, these errors created more than 18 minutes of CORBA pre-order outages for AT&T each day. As a result of these interruptions, either order processing may be delayed (thus irritating the customer, who has to wait longer to place an order with AT&T) or AT&T may lose the customer's business altogether (because the customer is unwilling to wait until the server has been reset to place the order). Finally, the delays caused by the need to reset

the server caused AT&T to suffer lost productivity for every minute in which its customer service representatives sat idle because the pre-ordering interface was unavailable.

49. AT&T raised this IDL issue, as well as other issues regarding SBC's failure to give proper notice to CLECs, at the quarterly Change Management meeting that SBC and the CLECs held on February 20, 2003. In response, SBC stated that it understood AT&T's concerns and would work with the CLECs on "improving" the CMP.

50. SBC's response, however, misses the point. There is no serious flaw in the CMP. The problem lies in SBC's failure to *comply* with the requirements of the CMP. By reserving the right to make changes without more than a "courtesy" notice – or without any notice at all – SBC has effectively arrogated to itself the unfettered power to disrupt the CLECs' access to its OSS. That power is the very antithesis of any effective change management process. Until SBC yields that power, and follows the notice requirements of the CMP in making changes, CLECs will not have the same degree of access to the OSS as that enjoyed by SBC's own retail operations. Instead, in seeking access to the OSS functions that they critically need to compete effectively in the local exchange market, CLECs will continue to be beholden to a third party (SBC) who treats their needs for a stable, reliable, and predictable OSS far differently (and far less favorably) than its treats its own.

51. Until SBC complies with the CMP in making changes, CLECs will continue to experience substantial disruptions in their operations – and will be significantly impaired in their ability to compete in the local exchange market in Michigan. The Department of Justice, for example, correctly points out that as a result of SBC's unannounced changes,

"CLEC customers suffer service deficiencies and the CLECs must consume their resources to discover the cause of the deficiencies, when SBC could simply have informed them in the first place." DOJ Evaluation at 7. In fact, AT&T's need to investigate the tens of thousands of its orders that were erroneously rejected as a result of unannounced changes has, by itself, required AT&T to dedicate numerous hours of personnel time and substantial costs.[14] If – as is frequently the case – AT&T must submit supplemental orders after the original orders are erroneously rejected, AT&T is required to dedicate substantial time and resources to the effort, including the charges that it must pay to SBC for submission of a supplemental order.

52. Moreover, the need to submit a supplemental order will delay provisioning of service to the customer. That delay will be further increased by SBC's design of its OSS, which causes such supplemental orders to fall out for manual processing (which also increases the risk of errors in provisioning). As a result of such delay and the increased risk of provisioning errors, AT&T's reputation in the marketplace suffers. In some instances AT&T's customers, blaming AT&T for the delay, may even cancel their orders. Indeed, between September and November 2002, as the volumes of erroneously-rejected AT&T orders increased, the cancellation rate in Michigan increased from 5.3 percent to 6.4 percent.[15]

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[14] AT&T has also been required to expend substantial time and costs to respond to other problems resulting from the errors committed by SBC's OSS. For example, when AT&T learned that SBC had neglected to complete the provisioning of approximately 500 telephone numbers associated with a backlog which was caused when SBC sent hundreds of "WSIC" notices that AT&T had no ability to respond to. AT&T called these customers in order to avoid potential accusations of "slamming." DeYoung/Willard Opening Decl. ¶ 75.

[15] Even where SBC has "un-rejected" the orders in the past, SBC has been slow to do so, resulting in delays in the provisioning of service to the customer – with resulting inconvenience to the customer (and possible cancellation of the order by the customer) *See, e.g.,* DeYoung/Willard Opening Decl. ¶¶ 80-81 (describing the long period of time taken by SBC to

53. SBC, by contrast, incurs virtually no liability for its erroneous rejections of orders due to its failure to provide advance notice of changes. Whenever AT&T submits supplemental orders to replace the rejected orders, no data regarding the original orders is reflected in SBC's reported performance results. Thus, any delays or other problems caused by the erroneous rejections will not be reported by SBC – and SBC will pay no financial penalties regarding them under its performance assurance plan. As we have previously testified, if data on the original orders had been included in the reported data, SBC would have been required to pay at least an additional $10 million for recent OSS problems, including erroneous rejections, based on late FOCs and missed due dates alone. DeYoung/Willard Decl. ¶ 28. Of this amount, approximately $2.6 million ($1.3 million for late FOCs and an additional $1.3 million for missed due dates) is attributable to orders from Michigan. Because SBC is able to escape such liability when a CLEC must submit supplemental orders to replace the rejected orders, it has no reason to improve its performance (and every reason to continue its pattern of disregarding the CMP).

II. SBC CONTINUES TO DENY AT&T NONDISCRIMINATORY ACCESS TO ITS OSS.

54. In our Opening Declaration, we showed that in numerous respects, SBC has denied AT&T nondiscriminatory access to pre-ordering, ordering, provisioning, maintenance and repair, and billing functions. These problems included, for example, frequent outages on SBC's CORBA interface, erroneous rejections of tens of thousands of AT&T's orders, SBC's failure to send tens of thousands of billing completion notices, and SBC's inability to provide

"un-reject" AT&T's orders). As previously indicated, SBC no longer "un-rejects" AT&T's orders for residential service, because it has not implemented that capability in LSOG 5, under which AT&T now submits its orders for residential service.

complete and accurate line loss notifiers on a reliable basis. DeYoung/Willard Opening Decl. ¶¶ 50-132.

55. Since we prepared our Opening Declaration, we have become aware of additional problems that further underscore SBC's failure to provide nondiscriminatory access. Problems with the availability of the CORBA interface continued to occur in February. SBC continues to show itself incapable of adequately fixing OSS problems, or making changes to its OSS correctly. Moreover, SBC still fails to provide CLECs with information regarding ordering and provisioning functions that CLECs need in order to complete effectively in the marketplace. Finally, SBC has committed an unacceptably high rate of errors in provisioning CLEC orders.

A. Pre-Ordering

56. SBC continues to fail to provide nondiscriminatory access to pre-ordering functions. As we described in our Opening Declaration, from October through December 2002 SBC's CORBA pre-ordering interface experienced a dramatic increase in outages that frequently rendered AT&T unable to perform some, or all, pre-ordering functions. For example, the number of impacted user minutes ("IUMs") due to CORBA outages in the Ameritech region increased from zero in August and September to 11,845 in October, 9,470 in November, and 8,733 in December.[16]

57. In February 2003, CORBA again experienced substantial outages in the Ameritech region. During February five separate outages occurred on CORBA on five different

[16] DeYoung/Willard Opening Decl. ¶¶ 52-53 & Att. 3. IUMs measure the amount of time during which AT&T representatives are unable to access the CORBA interface while they are on-line and attempting to assist end-user customers. *Id.* ¶ 52.

days (February 10, 12, 13, 14, and 26). These five outages represented the highest number of outages that had occurred on CORBA during a given month since May 2002. *See* DeYoung/Willard Opening Decl., Att. 3. Furthermore, the number of IUMs in February 2003 was 8,471 – almost the same total as that for December 2002. *Id.* The combined total of IUMs for January and February 2003 in the Ameritech region (8,471) was higher than that for BellSouth and for SBC's two other BOCs, SWBT and Pacific.[17] For the 13-month period from January 2002 through February 2003, the total number of IUMs attributable to outages were far higher in the Ameritech region than in the BellSouth, Verizon, SWBT, or Pacific regions.[18]

58. The substantial occurrences of outages in the Ameritech region from October through December, followed by a resumption of such outages in February 2003, simply demonstrate the instability of SBC's OSS. The frequency and unpredictability of these outages impair AT&T's ability to submit orders expeditiously to SBC, resulting in possible loss of the customer's business or delays in provisioning. *Id.* ¶ 54. In such circumstances, AT&T and other CLECs are being denied a meaningful opportunity to compete.

[17] In January and February 2003, BellSouth had a total of 2,713 IUMs, while SWBT and Pacific had a total of 214 and 7,077 IUMs, respectively. Although Verizon had a higher number of IUMs in January and February than SBC's Ameritech region, the high number of IUMs for Verizon appears to be an aberration, since Verizon did not experience *any* outages for the entire twelve months of 2002. *See* DeYoung/Willard Opening Decl., ¶ 56 & Att. 3. Of the 11,366 IUMs experienced in the Verizon region in January and February, 11,161 of those IUMs occurred in January, followed by only 205 IUMs in February. *See* Attachment 7 hereto.

[18] During this 13-month period, the number of IUMs attributable to outages were 45,204 in the Ameritech region, 8,156 in the BellSouth region, 11,366 in the Verizon region, 9,854 in the SWBT region, and 25,278 in the Pacific region. A table summarizing the IUMs for this 13-month period, by region, is attached hereto as Attachment 7.

B. Ordering and Provisioning

59. In our Opening Declaration, we described numerous deficiencies in SBC's ordering and provisioning systems that render them unstable. Events in recent weeks reconfirm that even when SBC implements a "fix" that supposedly corrects an OSS problem, CLECs often find that the "fix" either does not work or has created new defects in the OSS. In other instances, SBC has made changes in its systems (such as updating tables) incorrectly, resulting in disruptions to AT&T's operations.[19] Finally, SBC still fails to provide CLECs with information that they need regarding SBC's ordering and provisioning processes.

60. **SBC's Continuing Inability To Fix Its OSS To Prevent Erroneous Rejections Due To "H332" Errors.** As we described in our Opening Declaration, in early January SBC returned rejection notices for some of AT&T's orders, citing error code H332 (Missing Value for Field Name/State). AT&T opened a trouble ticket with SBC, which issued a Defect Report ("DR"). SBC subsequently advised AT&T that it had removed this DR from its DR report. Although SBC's statement indicated that it had fixed the problem, AT&T continued to receive rejection notices with error code H332 on orders which it submitted after that time. DeYoung/Willard Opening Decl. ¶¶ 101-103.

61. SBC advised AT&T that it would implement a "fix" for this problem on February 12, 2003. However, when AT&T attempted to submit orders on February 13, 2003, some orders were again rejected with error code H332. Upon being informed of the rejections,

[19] *See, e.g.,* DeYoung/Willard Opening Decl. ¶ 62 (erroneous rejections due to change made by SBC to satisfy BearingPoint's Observations), ¶ 63 (erroneous rejections even after "fix" was supposedly implemented); ¶ 65 (erroneous rejections due to SBC's premature changes to AT&T's trading partner ID).

SBC responded that "for some reason" the problem had not yet been fixed, and that it would "try again" on February 19, 2003.[20]

62. On February 20, 2003, SBC advised AT&T that although it had implemented the "fix" on February 19, SBC had already *withdrawn* the "fix" because it had caused "other problems" in SBC's downstream systems. SBC stated that it was "back to the drawing board" and would advise AT&T when the problem had been "fixed for good."[21] On February 25, 2003, SBC indicated that an new "fix" would be implemented on March 7, 2003.

63. SBC has never explained to AT&T why this defect in its OSS has resulted in erroneous rejections of some of AT&T's orders, but not others. Whatever the nature of the defect, however, it is clear that the "fixes" that SBC previously implemented (including the "fix" implemented on February 19) did not work, and that the February 19th "fix" created new problems in the OSS. Even if SBC implements an effective "fix" on March 7 – an assumption that is optimistic, since SBC has already failed to do so on the two implementation dates that it previously promised – SBC will have taken two months to correct this OSS defect after it was first discovered. Such a delay is unreasonable under any standard.

64. **SBC's Failure To Provide Information Regarding the Procedures For Submitting LSRs Under LSOG 4.02 For Conversions From Special Access To UNEs.** By

[20] Electronic mail message from Janice Bryan (SWBT) to Patricia R. Sutton (AT&T), dated February 14, 2003 (attached hereto as Attachment 8). Although it stated that the problem had not yet been fixed, SBC did not make clear whether it had implemented a "fix" on February 12 that proved unsuccessful, or (alternatively) whether it had not yet implemented *any* "fix."

[21] Electronic mail message from Janice Bryan to Pamela Sutton, dated February 20, 2003 (attached hereto as Attachment 9).

Accessible Letters dated December 18, 2002, and February 25, 2003, SBC advised CLECs that as of March 9, 2003, they must use LSRs to request the conversion of special access circuits to UNEs (rather than use Access Service Requests, as CLECs had previously been able to do).[22] Thus, beginning in mid-February, AT&T Business Services ("ABS"), which submits LSRs using LSOG version 4.02, attempted to send test LSRs for such conversions to SBC.[23] SBC's OSS, however, rejected the orders on the ground that the Connecting Facility Arrangements ("CFAs") for these LSRs were already in use.

65. Because SBC had advised AT&T that CLECs could submit LSRs for conversions from special access to UNEs under its normal ordering procedures, AT&T contacted SBC for an explanation. After investigation, SBC acknowledged to AT&T that its OSS were still programmed to determine whether LSRs for new UNE loops that are submitted under LSOG 4.02 have a "busy CFA" – and to reject the LSR if the CFA is already in use. Because AT&T's conversion LSRs necessarily involved working circuits that are using an existing CFA, any such LSR would automatically be rejected if it was submitted through normal procedures. SBC had not previously communicated this fact to AT&T, and SBC's documentation contained no guidance on how to send orders that request re-use of existing CFAs.

[22] *See* Accessible Letter No. CLECAMSO2-129, dated December 18, 2002 (attached hereto as Attachment 10); Accessible Letter No. CLECAMSO3-017, dated February 25, 2003 (attached hereto as Attachment 11).

[23] AT&T started using LSRs to submit such requests because this particular project is ongoing and will extend beyond March 9, 2003.

66. After AT&T raised this issue with SBC, SBC disclosed to AT&T that it had previously developed a "workaround" that would enable AT&T to submit such conversion orders without rejection, if AT&T inserted certain information in the Related Purchase Order Number ("RPON") field on the order. As in the case of its statement regarding the design of its OSS, SBC had never previously advised AT&T that it had developed such a workaround. Furthermore, although SBC stated that the workaround was available, it has provided no documentation to CLECs describing the precise procedures that a CLEC must follow to use the workaround. Thus, it is clear that SBC had not developed proper procedures for the submission of LSRs requesting special-access-to-UNE conversions (despite issuing an Accessible Letter requiring CLECs to submit LSRs). Only after AT&T identified this defect did SBC design a workaround and – even after advising AT&T of the workaround – still has not provided documentation regarding these procedures.

67. **SBC's Failure To Advise CLECs of Its Practice of Withholding Billing Completion Notices During Its "Reconciliation Process."** As we have previously described, SBC failed to send AT&T tens of thousands of billing completion notices during January 2003. Although SBC has acknowledged that this problem was due to a defect in its OSS, it waited for nearly two months after it learned that the problem existed before notifying the CLECs of the existence of the problem (and of the "correction" that SBC had already made). Not until February 3, 2003, did SBC begin to transmit the missing BCNs to AT&T – and only because AT&T requested SBC to do so. *See* DeYoung/Willard Opening Decl. ¶¶ 91-100.

68. Shortly before SBC began to send the missing BCNs, AT&T learned of yet another instance where SBC had failed to provide CLECs with proper notice regarding its

procedures for transmitting BCNs. On January 30, 2003, AT&T received a number of BCNs from SBC. These BCNS were clearly not the "missing" BCNs acknowledged by SBC (*i.e.*, the BCNs that SBC had not sent at all due to the deficiency in its OSS), because SBC had stated that it would only begin to transmit the "missing" BCNs to AT&T on February 3.

69. When AT&T requested an explanation from SBC, SBC acknowledged that the "January 30th BCNs" were not "missing" BCNs. Instead, those BCNs were from files for the period between January 20 and January 27, which SBC had "held" while it was conducting a billing "reconciliation process."[24] SBC further explained that it began flowing these BCNs to CLECs on January 28, after the reconciliation process had been completed.[25]

70. SBC had never previously advised AT&T that it would "withhold" the transmission of BCNs during a billing "reconciliation process." Although SBC indicated on February 6th that such a withholding procedure was described in one of its Accessible Letters describing the UNE-P "reconciliation process" (CLECAM02-509), AT&T has found nothing in that Accessible Letter, or in other SBC Accessible Letters describing the "reconciliation process," which even suggests that SBC would withhold BCNs pending completion of that process.[26]

[24] This billing "reconciliation process" is discussed in the separate Reply Declaration of Sarah DeYoung and Shannie Marin.

[25] *See* electronic message from Thomas Himm (Pacific) to Walter W. Willard, dated February 6, 2003 (attached hereto as Attachment 12). It appears that SBC was able to transmit these BCNs because the files in which they were included had not been corrupted by the OSS error that caused tens of thousands of other BCNs not to be sent at all.

[26] *See, e.g.,* SBC Accessible Letter No. CLECAM02-509, dated November 21, 2003 (attached hereto as Attachment 13).

71. As explained in our Opening Declaration, delayed BCNs cause significant competitive harm. BCNs are used to confirm that the end-user is now treated by SBC's OSS as an AT&T customer. Any delay in receipt of the BCN correspondingly delays the ability of AT&T to send subsequent orders on the same end-user's account. DeYoung/Willard Opening Decl. ¶ 93. In this case, SBC's "withholding" delayed the transmission of BCNs by as much as 10 days.

72. However, SBC's failure to advise AT&T, and other CLECs, of its practice of "withholding" BCNs during the reconciliation process is equally disturbing because it evidences SBC's indifference to providing CLECs with OSS-related information that they need to conduct operations in an effective manner.[27] Here, not only did SBC fail to send such BCNs, it intentionally withheld them, and admitted to doing so only after AT&T initiated contact with SBC about the missing BCNs.

73. **Provisioning Errors.** As WorldCom describes in its comments, SBC commits an unreasonably high rate of errors in provisioning CLEC orders.[28] In the provisioning portion of its third-party test, for example, BearingPoint found that SBC had not satisfied its test criterion which measured whether the customer service record, as it existed after implementation

[27] In recent proceedings before the Illinois Commerce Commission, SBC took the position that the BCN was simply an "FYI" (For Your Information) and "additional notifier" to the CLEC that communicated the same information to a CLEC as a service order completion notice. *See* transcript of proceedings held February 13, 2003, before Illinois Commerce Commission in ICC Docket No. 01-0662, at 3814-3816 (testimony of Mark Cottrell). SBC's position that the BCN is redundant is factually incorrect, and ignores the need of CLECs to receive a BCN to confirm that the end-user is now treated by SBC's OSS as the CLEC's (not SBC's) customer. Until it receives a BCN, a CLEC is effectively precluded from sending a subsequent order on the end-user's account. *See* DeYoung/Willard Opening Decl. ¶¶ 92-93 & n.26.

[28] *See* Comments of WorldCom, Inc., at 8-10.

of an LSR, was consistent with the LSR together with the CSR as it existed prior to the submission of the LSR. Even after two retests, SBC failed to meet BearingPoint's benchmark of 95 accuracy, attaining (at most) 92 percent accuracy.[29] For this reason, the Michigan PSC specifically ordered SBC to include in its Compliance Plan adequate proposals for improving its performance in this area. *Michigan PSC Compliance Plan* at 7-8.

74. SBC acknowledges in its Compliance Plan that it has problems in provisioning orders accurately. SBC states that, in the 8 percent of cases where BearingPoint found inaccuracies in the CSR, "the primary cause of [such] inaccuracies was errors on manually handled Resale and UNE-P service orders," where "the data on the CLEC-submitted LSR was not accurately input on the internal service order by the SBC service representative." Compliance Plan, Att. A at 2. Although SBC attempts to minimize the problem, it effectively admits that provisioning accuracy problems occur in at least the context of the ordering of complex products. *Id.* at 2-3. SBC proposes an "action plan" to address the problem, but the components of that plan – training of its service representatives, a "quality review process for CSI accuracy," and a review by BearingPoint at a later time (determined by SBC) – remain mere promises at this point. *Id.* at 3-6.

75. SBC's own reported data regarding its performance for AT&T show that it commits an unreasonably high rate of provisioning errors. Of the 1,393 AT&T trouble tickets in Michigan that SBC included for September and October 2002 under Performance Measurement 35 (Percent of Trouble Reports Closed within 30 days), 130 of those tickets – or 9.3 percent of the total – were closed with code 0525, which is the trouble code used by SBC to signify

[29] *See* BearingPoint Report issued October 30, 2002, at 935 (Test Reference TVV4-27).

provisioning errors made by SBC in connection with flow-through orders. These data, which likely do not capture the full extent of SBC's deficient performance, show that a significant percentage of AT&T's customers are not receiving the features and products that they ordered, due to SBC's provisioning errors.[30]

76. SBC's inadequate provisioning accuracy performance substantially impairs the CLECs' ability to compete. CLECs cannot hope to attract and retain customers if customers do not receive the services and features that they ordered, because a customer is likely to blame any errors in provisioning on the CLEC, thus causing customer dissatisfaction and injuring the CLEC's reputation in the marketplace. Moreover, provisioning errors require CLECs to expend time and resources to correct such errors, including the time and resources associated with opening, tracking and closing out trouble tickets associated with inaccurate provisioning.

[30] As described more fully in the Reply Declaration of Karen Moore and Timothy Connolly, the reported data for PM 35 and PM 39 (Receipt To Clear Duration) contain no trouble tickets closed under code 0526 (which is the code that SBC issues to signify provisioning errors made by SBC when an order is manually processed), even though one would expect more trouble tickets to be closed using this code.

C. Billing

77. In our Opening Declaration, we demonstrated that SBC's performance in providing line loss notification is woefully inadequate. *See* DeYoung/Willard Opening Decl. ¶¶ 109-132. Recent admissions by SBC provide further evidence of its deficient LLN performance.

78. Until October 2002, AT&T Business Services received LLNs from SBC by facsimile, pursuant to agreement between the parties. However, in October 2002 AT&T submitted a CLEC Profile update to SBC requesting that SBC thereafter transmit all LLNs to ABS through the SBC LEX GUI interface.[31] AT&T made this request because receipt of LLNs through the electronic interfaces would be far less burdensome on AT&T than receipt of LLNs by fax, which requires a CLEC to perform extensive manual work to process the lost customer out of the CLECs' systems. SBC implemented AT&T's CLEC profile change, and purportedly changed its systems to send LLNs to ABS via the LEX GUI, effective October 10, 2002.

79. Although it has sent some LLNs to AT&T via the LEX GUI in response to AT&T's request, SBC recently advised AT&T that since October 10, it has sent approximately *1,700* LLNs to ABS by facsimile, rather than via the LEX GUI interface. SBC supplied a list of the faxed LLNs to AT&T on February 21, 2003. All of the faxed LLNs on the list are from the Ameritech region, and 1,171 of these LLNs involved customers in Michigan. Upon examination of the list, AT&T determined that the faxed LLNs date from October 10, 2002 (the date on which SBC was supposed to began transmitting the LLNs by the LEX GUI interface) through

[31] ABS uses a different ordering platform from that used by AT&T Consumer Services ("ACS"). Although it agreed prior to October 2002 that SBC could transmit LLNs to ABS by facsimile,

February 10, 2003. The list makes clear that substantial numbers of LLNs were faxed almost every working day.

80. SBC has stated to AT&T that it discovered that it had faxed the approximately 1,700 LLNs when it was analyzing all notifications previously sent through the translator for "Issue 7" – *i.e.*, LSOG 1. According to SBC, the LLNs were faxed because SBC had not properly modified the systems that it had used to return LLNs to the Test CLEC in BearingPoint's third-party OSS test. Because those systems were programmed to return LLNs to the Test CLEC by fax, and had not been reprogrammed to return LLNs to actual CLECs by electronic interfaces, ABS had received the LLNs by fax.[32]

81. SBC's explanation does not withstand scrutiny, because it is based on the erroneous premise that the LLNs in question were sent through the Issue 7 translator. Issue 7 (LSOG 1) was retired by SBC in September 2002. However, the LLNs sent to ABS only date from October 10, 2002 – *one month after Issue 7 was retired*. Thus, the faxed LLNs could not have been sent through, or stored in, Issue 7.

82. Even if SBC's explanation is correct, its transmission of more than 1,700 LLNs to ABS by fax represents only the latest of its continuing failures to provide LLNs to CLECs in a satisfactory manner. This latest failure – which SBC acknowledged only after the filing of our Opening Declaration – shows that SBC has not properly configured its OSS to provide LLNs in the manner requested by the CLECs. SBC's failure to transmit the LLNs by

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AT&T requested that LLNs also be transmitted to ACS via SBC's electronic interfaces.

[32] Electronic mail message from Janice Bryan (SWBT) to Walter W. Willard, dated February 21, 2003 (attached hereto as Attachment 14).

interface is particularly egregious because it agreed to do so last October, and assured AT&T at that time that its systems were prepared to do so. SBC not only failed to honor its commitment, but took more than four months before it determined that it was actually sending LLNs by fax.

83. The instability and unreliability of SBC's LLN systems have been confirmed in other ways in recent weeks. For example, SBC has transmitted *by fax* several LLNs that it was required to send to AT&T Consumer Services ("ACS") by electronic interface. As we described in our Opening Declaration, SBC inexplicably faxed a single LLN involving a single telephone number to ACS on January 31, 2003. DeYoung/Willard Opening Decl. ¶ 130 n.40. Since that time, ACS received additional LLNs by fax that SBC should have submitted electronically. On each of three days – February 12, February 20, and February 25 – AT&T received a single LLN by facsimile, rather than by the GUI interface.

84. On other occasions, AT&T has received LLNs in error for reasons that clearly reflect the inadequacy of SBC's LLN systems. In a report issued to AT&T on February 25, 2003, for example, SBC stated that one of the LLNs received by AT&T on February 12 had been generated in error because the "new" carrier had cancelled its order with SBC by the time the LLN had been sent. SBC's explanation indicates that the LLN had been sent before SBC had transmitted a service order completion notice ("SOC") to the "new" carrier.[33] Such a result is totally contrary to the procedures that SBC's OSS are supposedly designed to follow. Under those procedures, an LLN should not be generated before the order is completed.

[33] *See* electronic mail message from Janice Bryan (SWBT) to Walter W. Willard, dated February 25, 2003 (attached hereto as Attachment 15).

85. SBC's inadequate LLN systems, and its poor LLN performance, constitute a significant impediment to effective competition in the local exchange market in Michigan. As the DOJ recently stated:

> Precise delivery of line loss notifications is vital for a healthy competitive environment in Michigan. Line loss notifications inform a CLEC when its customers have left for other carriers, either other CLECs or SBC. Unless timely notifications are sent, the CLEC must assume that it still provides service to the customers in question. It will thus bill its now former customers for time in which it had been replaced. The new carriers will also bill the same customers for the same service they actually provide, and the customers will be double-billed. The customers naturally will blame the former carrier. Such double-billing, as the Michigan PSC observes, "may have serious negative effects on the reputations of … competitive providers." CLECs also consume resources investigating and fixing these avoidable problems.

DOJ Evaluation at 8-9 (quoting MPSC Report at 68-69). In addition to the obvious anti-competitive consequences caused by double billing, there are other harms associated with defective LLN systems. As we described in our Opening Declaration, AT&T, for example, was required to expend substantial time and resources in attempting to have LLN problems resolved by SBC. In addition, AT&T was required to develop an expensive and time-consuming manual process of preparing LLNs that had been "reflowed" by SBC after the original LLNs had been sent in an improper (and unreadable), because AT&T would not have otherwise have been able to enter the "reflowed" LLN information into its own systems. *See, e.g.*, DeYoung/Willard Opening Decl. ¶¶ 114-119, 126-129**.**

86. None of the LLN problems that we have described is reflected in the performance data reported by SBC. The only performance measurement for which SBC reports data regarding LLN is MI-13, which measures the timeliness of LLNs. That metric does not

capture situations where LLNs are never sent, or where LLNs are sent but are either incomplete or unreadable.

87. In its Compliance Plan, SBC promises that it "will provide monthly reports to the MPSC regarding line loss issues for a minimum period of six months, beginning with the calendar month of January." Compliance Plan, Att. D at 2. Yet the monthly LLN report that SBC recently filed for January 2003 states that there were "no occurrences" of line loss problems during that month – even though SBC continued its erroneous practice of faxing LLNs to AT&T through January 10, 2003. *Id.*, Att. I. SBC's failure to mention its erroneous faxing of LLNs in this report, by itself, shows that SBC has no intention of improving its line loss performance. If SBC does not regard as "line loss issues" its errors in transmitting LLNs by fax and in creating LLNs before a SOC has been issued (*see* ¶ 78-84*, supra*), it is likely to be equally cavalier in its treatment of other line loss problems.

88. Indeed, even leaving aside SBC's incomplete January LLN report, the "action plan" for LLNs that SBC includes in its Compliance Plan offers no basis for believing that SBC will improve its performance. SBC asserts in its Compliance Plan that it has developed "a reliable process for delivery of line loss notifications to CLECs" – a claim that ignores the repeated instances of failures in those systems in recent months, including November and December. *See* Compliance Plan, Att. D at 1; DeYoung/Willard Opening Decl. ¶ 124-130.[34] Instead, SBC confines its action plan to "an improvement in communications from SBC to

[34]SBC bases its claim on the test results associated with BearingPoint's Exceptions 74 and 94. Compliance Plan, Att. D at 1. BearingPoint, however, closed Exception 74 in October 2002 and Exception 94 in August 2002. As we have previously shown, SBC's LLN systems continued to exhibit serious deficiencies well after BearingPoint closed these exceptions.

CLECs should future incidents occur related to the delivery of line loss notifiers." Compliance Plan, Att. D at 2. Even that limited portion of the "action plan," however, is inadequate. For example:

- SBC promises that it will issue an Accessible Letter to CLECs within one business day of determining "that an interruption of line loss notification issuance that could affect more than one CLEC has occurred." *Id.* It does not appear, however, that SBC would issue such Accessible Letters in other situations, as when CLECs receive incomplete or unreadable LLNs or when SBC determines that a line loss outage could affect "only" one CLEC.

- SBC promises that it will "immediately provide appropriate notification" when it "changes its line loss notifier procedures." *Id.* SBC, however, does not define "changes in line loss notifier procedures" – a term that could be interpreted as including changes to SBC's line loss *systems* (which SBC is required to implement through the Change Management Process). SBC's proposal makes no distinction between the two concepts. Furthermore, although SBC promises to provide "appropriate notification" of changes in LLN procedures, it nowhere defines what notification is "appropriate" – obviously leaving that determination to itself.

89. SBC's promises in its Compliance Plan, in short, are no more likely to improve its LLN performance than its vague promises in its Application to "tighten" the LLN process "through revisions to documentation and reinforcement education to responsible personnel." DeYoung/Willard Opening Decl. ¶ 132; Cottrell Aff. ¶ 191. In view of its position that its LLN systems are already reliable, SBC plainly has no current intention of improving those systems, even though the evidence in this proceeding demonstrate that they continue to be seriously flawed. To the contrary, as WorldCom notes in its comments, SBC recently announced that it is disbanding the special team that apparently was responsible for addressing and resolving LLN problems, even though the group clearly has not completed its task.[35]

[35] *See* Comments of WorldCom, Inc., at 4-5.

90. Although prompt notification of LLN "issues" that arise is important to CLECs, the CLECs' most fundamental need is for a consistent, reliable LLN process. "After-the-fact" notices may arrive too late for a CLEC to prevent the adverse impacts on customers that result when SBC's LLN systems perform inadequately. Moreover, a process of simply notifying CLECs of LLN problems, without implementation of stable and reliable LLN systems, will require CLECs to expend additional time and resources in receiving, processing, and accounting for "errant" LLNs. SBC should be required to show that its LLN systems have rendered adequate performance for *at least* 3 months before the Commission may properly make a determination that those systems are stable and reliable. SBC has not yet made such a showing.

91. As discussed elsewhere in AT&T's Reply Comments, and in the comments filed by other CLECs in this proceeding, SBC's inability to provide timely and accurate LLNs *has* caused significant double billing problems for AT&T and other CLECs. These errors have increased the CLECs' costs, while undercutting AT&T's reputation with customers as a reliable service provider.[36]

92. The full extent of the LLN problem, and the billing errors that result therefrom, have still not been determined. For example, in response to problems identified by BearingPoint's Exception 74 – which examined whether SBC provided LLNs in a timely manner – SBC stated that some of the "missing" LLNs were not sent were due to a coding error that misprovisioned orders as new orders, rather than as migration orders. Because these orders were erroneously coded as new orders, no LLN was ever sent to the "losing' carrier on these orders.

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[36] *See, e.g.,* Joint Reply Declaration of Sarah DeYoung and Shannie Marin; Opposition of Z-Tel Communications, Inc., at 5.

Although SBC has asserted that it has fixed the error, SBC's admission highlights the difficulty of determining the full impact of the LLN problem on consumers and CLECs. If, as BearingPoint's test indicates, SBC has failed to send numerous LLNs to AT&T, AT&T would have no way of preventing double billing of the customer, or of determining whether those missing LLNs resulted in inaccuracies to SBC's wholesale bills to AT&T.

93. Finally, the January 2003 "data bash" performed by SBC further confirms that SBC is unable to provide accurate and timely wholesale bills to CLECs. As discussed in the Reply Declaration of Sarah DeYoung and Shannie Marin, the "data bash" revealed that SBC has been charging CLECs incorrectly on more than 138,000 UNE-P circuits (out of fewer than one million UNE-P customers). Such a staggering number of errors belies any notion that SBC is providing nondiscriminatory access to billing functions.

III. SBC'S "VERSIONING REQUIREMENTS," AND THE LIMITATIONS THAT IT PLACES ON THE USE OF ITS TEST ENVIRONMENT, REMAIN A SUBSTANTIAL IMPEDIMENT TO EFFECTIVE COMPETITION.

94. Rather than promote effective competition, SBC's "versioning" policy and test environment have impeded it. By requiring that CLECs using a particular operating company number ("OCN") must use the same version of LSOG to submit LSRs over the EDI interface, SBC has precluded AT&T from using the EDI interface to place orders with third party DLECs for line splitting, or from partnering with other outside vendors to assist other ordering efforts. *See* DeYoung/Willard Opening Decl. ¶¶ 136-157. Similarly, SBC's recently-imposed limitation on the amount of retesting that a CLEC may perform in its test environment effectively prevents AT&T from determining through testing that its orders will interact

smoothly and efficiently with SBC's OSS in the actual production environment. *Id.* ¶¶ 177-185.

95. Since we filed our Opening Declaration, SBC has given no indication that it will remove these limitations in the foreseeable future. SBC has not altered its prior position that it will not change its "same-version" policy unless CLECs agree to certain conditions, which are patently unreasonable. Similarly, although SBC has orally suggested in recent weeks that it plans to make changes that might have the effect of relaxing its limitations on retesting in the test environment, at this stage its plan is too vague and tentative to be given any weight.

96. **SBC's "Same-Version" Policy.** The Department of Justice states that the Michigan PSC's forthcoming collaborative discussions "should provide a forum in which the parties can work toward a mutually satisfactory result" of the issue of SBC's "same-version" policy. *See* DOJ Evaluation at 13 n.58. It is unclear why DOJ believes that this issue will be addressed at the upcoming collaborative sessions. The focus of the collaborative sessions is expected to be on SBC's Compliance Plan, which includes no proposal for changes in its "same-version" policy. *See Michigan PSC Compliance Order* at 4-5; Compliance Plan, Att. F. Indeed, the agenda for the collaborative contains no reference to versioning, nor has SBC told AT&T in any of the discussions that the parties have had on this subject that it was planning to address versioning in the collaboratives sessions.

97. SBC, in fact, has given no sign in recent weeks that it has retreated from its previous position. SBC still maintains that it will base versioning on purchase order numbers, rather than on OCNs (and thus effectively eliminate the "same-version" policy) *only* if CLECs

agree to forego the requirement that SBC support two major LSOG versions at a time – a requirement that CLECs fought long and hard to win. SBC's condition is totally unreasonable. The availability of two major LSOG versions at a time is important to CLECs, because it provides CLECs with a "safe haven" from OSS problems created by new versions and aids CLECs in business planning and resource utilization. *Id.* ¶¶ 154-155.

98. Nor is there any indication that SBC has altered the even less flexible position regarding the "same-version" policy that it has taken in meetings with AT&T. At a meeting in late January, SBC proposed no solution to this problem at all, suggesting only that AT&T's DLEC partner either use the GUI interface (which, as SBC well knows, cannot support large commercial volumes) or support multiple versions by itself. *Id.* ¶ 155.

99. AT&T first raised the "same-version" policy as an issue in mid-2002, but only insofar as the policy was causing internal problems within AT&T. At the time, AT&T did not regard the internal problem as posing a serious competitive impediment.[37] Soon after AT&T and Covad announced their line splitting arrangement in January 2003, however, it became apparent to AT&T that the "same-version" policy would all but preclude that arrangement, any other line splitting arrangements that AT&T might make, and other types of arrangements between AT&T and other CLECs. By requiring that orders originating from a given OCN be sent in the same version, SBC's policy ensures that any order sent by another party using

[37] SBC's "same-version" policy created substantial internal problems for AT&T internally, because AT&T Consumer Services and AT&T Business Services use different ordering platforms, but have some products that share OCNs. *See* DeYoung/Willard Opening Decl. ¶ 141 n.43. AT&T did not raise this with SBC as a competition-affecting issue because AT&T recognized that the internal problem is, in great part, the result of AT&T's complex organization and of AT&T's prior mergers with other entities, including TCG.

AT&T's OCN under a line splitting or other arrangement will be rejected if (as is frequently the case) the third party uses a different LSOG version than AT&T.[38] AT&T therefore has argued to SBC since early 2003 that the policy not only impedes effective competition but violates SBC's nondiscrimination obligations under the 1996 Act. Nonetheless, despite repeated requests by AT&T, SBC still insists that it will not change its policy – and currently has no short-term or long-term provisioning proposals to offer.

100. SBC cannot plausibly argue that its policy is consistent with the nondiscrimination requirements of the checklist, since SBC does not apply the policy when *SBC* itself makes arrangements with other LECs. *Id.* ¶ 150. There is no legitimate basis for this difference in treatment – as evidenced by the fact that no other RBOC imposes a comparable "same-version" policy on CLECs. *Id.* ¶ 139 (describing other RBOCs' practices of requiring consistency in the EDI version only at the trading partner ID level, as AT&T has requested).

101. **Test Environment.** Since we filed our Opening Declaration, SBC has not changed its recently-adopted limitation that CLECs may re-test "no more than three times" a particular pre-order transaction in its test environment. This policy is unreasonable, because it impairs the ability of CLECs to perform any necessary "multiple retesting" to determine whether changes they have made have affected transactions other than those for which the

[38] Under the line splitting arrangement planned by AT&T, the data CLEC would submit the order for line splitting to SBC because it is the provider of the data service and, as such, would be responsible for performing the work in the central offices needed to provision the orders. SBC's "same-version" policy, however, would preclude such an arrangement between AT&T and the data CLEC unless they both used the same version – which will frequently not be the case. Even if AT&T and the data CLEC operated from the same version, the "same version" policy would preclude AT&T and its data CLEC partner from entering into line-splitting partnerships with other CLECs who operated on different versions of EDI. DeYoung/Willard

change was made, or any of their own upstream systems. *Id.* ¶¶ 177-182. To the best of AT&T's knowledge, no other RBOC imposes limitations on the number of test transactions that are allowed, or limits the test cases that may be tested.

102. In addition to being unreasonable, SBT's limitation on retesting is discriminatory. SBC is able to perform as much internal retesting of changes to its OSS as it wishes, whether in connection with its retail operations or otherwise, until it decides that no more retesting is necessary. The nondiscrimination provisions of the 1996 Act require that SBC give CLECs the same ability.

103. In a meeting with CLECs held on February 7, 2003, SBC orally advised the CLECs of it future plans to conduct a trial that would permit CLECs to perform unsupervised testing in its 13-State region as long as they submitted a "minimum" test plan, including the number of times they intended to test a particular transaction. SBC stated that under this arrangement it would use the CLEC's estimates only as a tracking tool, and that a CLEC could perform additional retesting (in supervised testing) if it determined that its testing needs went beyond those in its "minimum" test plan.

104. Even if SBC conducts the trial, however, SBC has not described its plan in sufficient detail to enable CLECs to determine whether the arrangement would, in fact, give them the ability to conduct all the retesting that they need. SBC, for example, stated during its recent meeting with CLECs that it will develop a set of test transactions that CLECs may test under the trial arrangement. However, SBC has not described what those particular transactions

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Opening Decl. ¶¶ 144-148.

will be. In fact, to date SBC has provided CLECs with no documentation describing the proposed trial arrangement. Moreover, SBC, has not described precisely when it would implement this trial. Instead, SBC stated that it intended to do so sometime during the third quarter of 2003. Consequently, although SBC's proposal for unsupported testing appears to represent some departure from its current limitation on retesting, at this stage the proposal is too lacking in detail and too speculative for it to be given any weight. Additionally, AT&T remains concerned that the unsupervised pre-order testing trial does not represent a firm commitment by SBC, because the trial status gives SBC wide discretion in determining whether or not to implement the trial arrangement on a permanent basis.

CONCLUSION

105. Events since the filing of our Opening Declaration simply provide additional evidence that SBC has not yet provided CLECs with nondiscriminatory access to its OSS. Given the patent inadequacy of SBC's recently-filed "Compliance Plan," there is even less reason than before to think that SBC's OSS performance will improve. The events of the last few weeks – including SBC's unwillingness to provide the notice required by the change management process in making changes to its OSS, its inability to fix problems in its OSS, and its continuing failure to provide line loss notifications in an adequate and reliable manner – are but the latest manifestations of its steadily worsening performance.

106. The recent instances of SBC's denial of nondiscriminatory access to its OSS erect new obstacles to effective competition in the local exchange market in Michigan beyond those that already existed at the time we filed our Opening Declaration. As the

performance of SBC's OSS has deteriorated, AT&T's ability to attract and retain customers in Michigan has decreased – while its customer disconnect rate in Michigan has increased to almost 7 percent. That rate is the highest level of any State in which AT&T is providing local exchange service.[39] Unless and until SBC improves the performance of its OSS to the level required by the 1996 Act, the ability of AT&T and other CLECs to compete will continue to deteriorate, and effective competition in the market will be even more difficult to achieve.

[39] *See* DeYoung/Willard Opening Decl. ¶ 19.